

AUG 22 1984

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information you submitted indicates that you were incorporated under the State of [REDACTED] Nonprofit Corporation Act on [REDACTED]. Your stated purposes are, in part, to provide for the collection, assembly and disposal of trash, refuse, waste and litter from premises in order to beautify and enhance public and private property and their improvements and to provide the maintenance and upkeep of personal and real property for appearance and general welfare.

Your application states that you provide for the collection of garbage, refuse and litter by an independent contractor; pay utility bills for community street lights and security lights; pay for repairs of community streets; provide for care of citrus trees on the rear of the lots in the community subdivision; pay for yard upkeep and beautification, but do not provide for any maintenance of private residential buildings. All of the foregoing services performed by independent contractors for the corporation are supported by assessments against the members on a non-profit basis, with no preferential treatment given to any particular member.

Membership in your organization is limited to lot owners in a small subdivision located outside the city limits of [REDACTED]. There are [REDACTED] members in your association.

Your receipts and expenditures statement for the year ended [REDACTED] indicates that you received dues of \$ [REDACTED] from your members. Your expenditures for this period totaled \$ [REDACTED] and included \$ [REDACTED] for orchard care and yard care, respectively.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes."

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
		623-21	[REDACTED]				

Section 1.501(c)(4)-1 of the regulations provides, in part, as follows:

"(a)(1) In General. A civic league or organization may be exempt as an organization described in section 501(c)(4) if -

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare."

Revenue Ruling 74-90, 1974-1 Cumulative Bulletin 131, holds that in order for a homeowners association to qualify for exemption under section 501(c)(4) of the Code, it must have the following characteristics:

1. The organization must serve a "community" which bears a reasonable, recognizable relationship to an area ordinarily identified as governmental;
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the public.

You are serving a small subdivision which is not a "community" and does not bear a reasonable, recognizable relationship to an area ordinarily identified as governmental. Your larger expenditures, and presumably your primary activities, were for the maintenance of your members' yards and grove care for your fruit orchard. Neither of these activities can be considered as furthering public services but are for the benefit and convenience of your members. Caring for yards is comparable to maintaining the exterior of residences and, as such, is in violation of Revenue Ruling 74-90.

Based on the above, it is held that you do not qualify for exemption from Federal income tax under section 501(c)(4) of the Code. You are required to file an annual Federal income tax return on Form 1120. Since you are a homeowners' association, you may qualify for treatment under section 528 of the Code. We are enclosing a copy of Publication 586, Condominiums, Cooperative Apartments, and Homeowners' Associations, for your convenience.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

[REDACTED]

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final. If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

Sincerely,

[REDACTED]  
District Director

Enclosures:  
Form 6018  
Publication 588  
Publication 692

[REDACTED]